

Provide Planning Assistance to Towns and Regions

a) Land Use Planning

Enabling Legislation

5 MRSA § 3305 (A): Directs SPO to coordinate the preparation of policies to guide and carry forward the wise and coordinated development of the State's economy and its energy resources and the conservation of the State's natural resources in such areas as: land use, natural resources development and conservation, public investment and taxation, energy resources and state regulatory policy.

5 MRSA § 3305 (D): Directs SPO to provide technical assistance to local and regional planning groups in the fields of planning, public housing and urban renewal; to make available to municipalities and regional planning agencies existing information from state agencies to be used in the development of comprehensive plans and land use ordinances; to oversee delivery of technical assistance and resources to municipalities for the purpose of flood plain management activities and enhancing and expanding parks, open spaces and recreational opportunities as a part of comprehensive community development; and to provide technical assistance to municipalities and regional planning organizations in the development and implementation of local comprehensive land use plans within available resources.

5 MRSA § 3305 (E): Directs SPO to participate with other states or subdivisions thereof in interstate planning, and to assist cities, towns, municipal corporations, counties and regional agencies to participate with other states or their subdivisions in planning.

5 MRSA § 3307-F: Directs SPO to work collaboratively with DECD, the Maine Development Foundation, and other state agencies to coordinate the programs of the Maine Downtown Center to encourage downtown revitalization.

30-A MRSA § 2303: Directs SPO to serve as the coordinator between regional agencies and the State.

30-A MRSA § 4301 et seq: Directs SPO to administer the State's Growth Management Program in support of the State's goals and provide financial and technical assistance to municipalities for the purpose of planning and implementing local growth management programs. This includes developing regional education and training programs; reviewing local growth management programs for consistency under this act; and certifying local growth management programs at the request of the municipality.

P.L.1999, Ch. 776 (L.D. 2600): In spring of 2000, the Legislature substantially amended the Growth Management Act to tackle a growing concern about sprawl. The amendments direct the location of state office buildings and state growth-related capital investments into service centers and designated growth areas in towns with adopted comprehensive plans that are consistent with state goals.

P.L.2001, Ch.406 (LD 1693): In 2001, the Act was further amended to extend the deadline for municipal comprehensive plan requirements (due to lack of grant funding), to clarify the relationship between comprehensive plans and local land use authority, to increase flexibility in the designation of growth and rural areas, and to protect municipalities from certain unintended consequences of the law. The amendment also directs state agencies to establish preferences in grant and investment programs to assist municipalities with preventing sprawl.

In addition to ongoing duties, the Legislature frequently calls on SPO to conduct short-term land use planning projects. Recent examples include:

- *P.L. 1999, Ch. 776*: Directs SPO to assist the Department of Education with siting new schools consistent with state efforts to curb sprawl
- *P.L. 1999, Ch. 776*: Directs SPO and the State Board of Education to submit a joint report with recommendations regarding land use ordinances and zoning ordinances near newly constructed schools
- *P.L. 1999, Ch. 776*: Directs SPO to assess the Department of Economic and Community Development with developing a state policy to strengthen downtowns
- *P.L. 1999, Ch. 776*: Directs SPO to develop model land use ordinances
- *P.L. 1999, Ch. 776*: Directs SPO to expand grants and technical assistance to municipalities and regional agencies*
- *P.L. 1999, Ch. 776*: Directs SPO to work with DEP to make recommendations to redevelop underused industrial and commercial properties with potential environmental contamination
- *P.L. 1999, Ch. 676*: Directs SPO to work with DOT to provide road planning assistance to municipalities to address Smart Growth
- *Resolve 23, 2001*: Directs SPO to convene a Geographic Information Systems (GIS) working group to create a regionally based statewide GIS system to help map development patterns and opportunities
- *P.L. 2001, Ch. 359*: Directs SPO to study possible strategies to coordinate subdivision review and title search procedures
- *Resolve 1999, Ch. 63, Study Order 1090, and H.P.1330*: Directs SPO to assist three separate task forces with the study of sprawl and growth management issues

Positions Contributing to this Responsibility

- (1) Policy Development Specialist
- (4) Senior Planners
- (1) Senior Planner (limited period position)
- (1) Planner II
- Shared Clerical and Administrative Support

Description

In the 1980s, new development inundated towns, especially in southern and coastal

* The Legislature provided \$1.7 million in one-time money to a separate program, #0042 - Smart Growth Initiative, which appears in SPO's FY01 budget.

Maine. Municipalities could not keep up with processing building permits, let alone with building roads and sewers and providing emergency and other municipal services. Most communities had no basis for deciding on development permits nor did they have tools to direct growth to its most desirable locations. In 1988, the Legislature stepped in, enacting the Growth Management Act to help towns develop land use planning tools which would, in turn, accomplish 10 statewide goals (30-A MRSA § 4312 (3)):

- To encourage orderly growth and development in appropriate areas of each community, while protecting the State's rural character, making efficient use of public services and preventing development sprawl;
- To plan for, finance and develop an efficient system of public facilities and services to accommodate anticipated growth and economic development;
- To promote an economic climate which increases job opportunities and overall economic well-being;
- To encourage and promote affordable housing opportunities for all Maine citizens;
- To protect the quality and manage the quantity of the State's water resources, including lakes, aquifers, great ponds, estuaries, rivers and coastal areas;
- To protect the State's other critical natural resources, including without limitation, wetlands, wildlife and fisheries habitat, sand dunes, shorelands, scenic vistas and unique natural areas;
- To protect the State's marine resources industry, ports and harbors from incompatible development and to promote access to the shore for commercial fishermen and the public;
- To safeguard the State's agricultural and forest resources from development which threatens those resources;
- To preserve the State's historic and archeological resources; and
- To promote and protect the availability of outdoor recreation opportunities for all Maine citizens, including access to surface waters.

Even during the first half of the 1990s, in a period of relatively slow growth and development (compared with the pace of the 1980s), 4,000 new housing units and hundreds of thousands of square feet of commercial and industrial space were added annually in Maine. The pace increased to more than 5,000 units per year in the late 1990s. Other development, too —of energy plants, for example, and of expanded transportation facilities —is necessary for a growing economy. New development is spreading to an ever-widening suburban-rural fringe, as well as to places of special and sometimes unique character along Maine's coast and near inland lakes and mountains. This new development carries with it a variety of fiscal and environmental costs.

Originally, the State mandated a town-by-town response to growth through regulating land use. In the 1990s, SPO began to recognize the regional and state influences on growth patterns. As a result, SPO shifted its focus to the legislative goal of “efficient use of municipal services while avoiding development sprawl” (30-A MRSA § 4312 (3) (A)). Today, while the framework of the original Growth Management Act remains in tact, the program recognizes that strategies to address its goals require a broader focus than just zoning. Public investment (state, municipal, and federal) needs to support carefully planned growth rather than simply respond to the impacts of growth and development.

When the Growth Management Program was created in 1988, it was put in the Department of Economic and Community Development. The division of Community Land Use Planning administered the program, which at its height had 31 staff and an annual budget of \$4.2 million. The division was abolished in 1992 and transferred to DECD's Office of Community Development. Over the next few years, its staff was reduced to 19, then to seven, then transferred to the State Planning Office in 1995.

SPO's land use planning responsibilities fall into three areas. Under the Community Planning and Investment Program, SPO provides grants to municipalities to develop and implement local comprehensive plans that designate where growth can and should be accommodated and where it should not be. SPO administers the one-time \$1.7 million Smart Growth Initiative designed to improve land use planning and develop new tools to manage development. One aspect of this initiative involves examining state policies that contribute to sprawl, such as new school construction, the construction of state office and other civic buildings, highway access, economic and community development investments, and environmental regulations. SPO also provides general land use technical assistance within its resources. For example, SPO developed a model site plan handbook and a municipal model ordinance for siting telecommunications towers and conducted a workshop for town planners and attorneys about the proper uses of building permit caps.

Progress towards Goals and Objectives

To achieve its goal of stimulating the development of the State's economy and the conservation of its natural resources, SPO strives to enhance existing urban and rural service hubs and contain sprawling patterns of development.

SPO measures its performance by tracking population trends in urban and rural service centers with the intent of reversing the population decline in these areas.

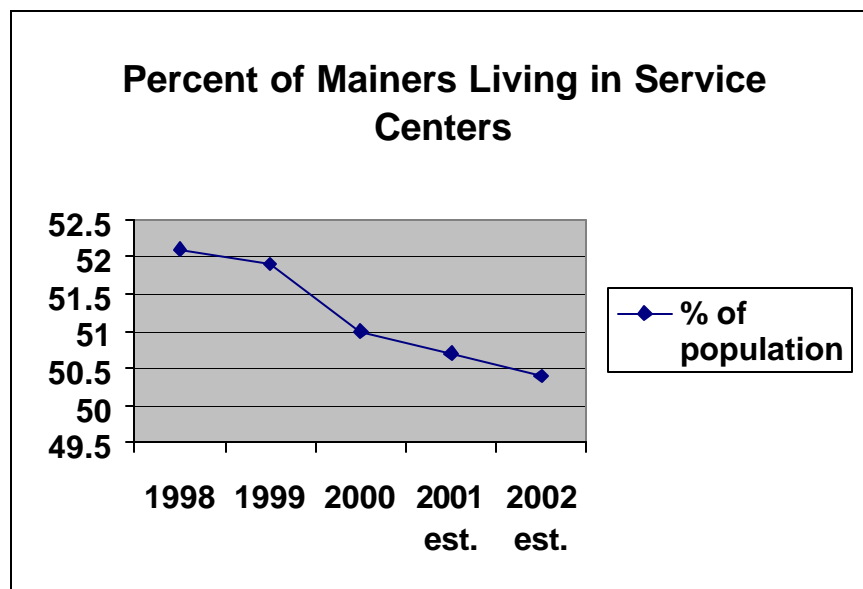


Figure 4: SPO wants to see service center population declines slow, then stop by 2010

Assessment of Progress

This performance measure looks at SPO's success at reversing population migration patterns. This ambitious goal is focused initially on slowing the decline of outmigration from Maine's urban and rural service communities. In 2000, population in service centers was still declining, as expected. Administration of the Growth Management Act has shown that there are no simple solutions to the problems associated with patterns of growth and development –no “silver bullet” that will work within the fundamental legal, political, and social structure of the State to prevent sprawl. Rather, the solutions are embedded in a series of small and interconnected policy directions, investments, and public education. Thus, progress toward this goal will take time.

SPO affects declining population centers by providing financial and technical assistance to towns to develop and implement comprehensive plans under the Community Planning and Investment program.

SPO has also launched a new “Smart Growth” initiative with \$1.7 in one-time funding from the Legislature. The new funding has allowed SPO to provide more municipalities and regions with land use planning grants and grants for comprehensive plan implementation and plan updates, to develop alternative growth management initiatives, and to pilot new growth management techniques at the state, local, and regional levels. In addition, funding will help municipalities strengthen comprehensive plans to include locally-designated growth areas and to protect rural areas. As part of the effort, SPO works with architects and builders to develop urban and suburban neighborhoods and to use the marketplace to slow sprawl, provides training and technical assistance to local and regional planners, and works with state agencies and the Legislature to reverse policies and investment decisions that inadvertently encourage sprawl.

Performance Outputs for 2000

- Funded three brownfield assessments
- Conducted a workshop on Building Caps (80 attendees)
- Conducted more than 90 Smart Growth presentations and growth management meetings with community and civic groups
- Assisted three legislative task forces to study sprawl and growth management
- Staffed the Smart Growth Coordinating Committee of the Land and Water Resources Council
- Staffed or supported nine studies on a range of topics from schools and downtowns, to the Subdivision Law, at the request of the Legislature
- Initiated a pilot project on Community Visioning in support of local comprehensive planning efforts
- Produced nine new technical assistance bulletins to assist towns with reviewing development proposals, plus a brochure on the ABCs of School Site Selection, and a manual on updating comprehensive plans
- Prepared a strategy to protect public drinking water supplies*
- Develop recommendations on the use of incentives to keep land in productive fishing, farming and forestry use*

* through the Land and Water Resources Council

- Developed a Smart Growth Toolbox (a web-based database of resources) (due out the end of this year)
- Developed a Guide to Livable Design, Municipal Handbook of Smart Growth Ordinances and Policies, and Impact Fee Handbook (due out January 2002)
- Administered the Community Planning & Investment grant program that provides municipal grants for comprehensive planning and implementation (to develop land use ordinances to implement their comprehensive plans), and that certifies local growth management programs (see below)
- Developed three new grant programs for: Smart Growth Challenge Grants, Regional Smart Growth Technical Assistance Grants, and Great American Neighborhood Grants (see below)

Below is the status of Maine's 494 municipalities with regards to community planning:

<i>Comprehensive Plans</i>	<i>Comprehensive Plans Updates</i>	<i>Implementation</i>
<ul style="list-style-type: none"> • 387 municipalities have received comprehensive planning grants • 32 of these 387 are active grants with the municipalities working on a plan • 190 municipalities have an adopted consistent comprehensive plan • 210 municipalities have a consistent comprehensive plan (not necessarily adopted) • 53 municipalities have an adopted inconsistent comprehensive plan 	<ul style="list-style-type: none"> • 22 municipalities have received comprehensive plan update grants and are actively working on an update • 11 municipalities unsuccessfully competed for a comprehensive plan update grant 	<ul style="list-style-type: none"> • 214 municipalities have received an implementation grant • 25 of these 214 are active grants with municipalities working on a zoning ordinance • 26 municipalities have submitted zoning ordinances for review and have been found consistent (submission is voluntary; many others may and probably do have consistent ordinances)
<p><i>Certified Growth Management Programs (voluntary)</i></p> <ul style="list-style-type: none"> • 5 municipalities have a certified growth management program • 1 municipality's growth management program is under review for certification 		

Below is the status of Maine's 494 municipalities with regards to the State's Smart Growth Initiative.

<i>Smart Growth Challenge</i>	<i>Pilot Grants</i>	<i>Smart Growth Initiative</i>
<ul style="list-style-type: none"> • 8 municipalities have received a Smart Growth Challenge Grant and are actively working on their projects • 10 municipalities unsuccessfully competed for a Smart Growth Challenge Grant • 2 regions have received a Smart Growth Challenge Grant and are actively working on their projects • 10 regions unsuccessfully competed for a Smart Growth Challenge Grant 	<ul style="list-style-type: none"> • 11 municipalities have received a Regional Infrastructure Grant • 3 regions have received a Regional Infrastructure Grant • 2 municipalities have received a Rural Initiatives Grant • 4 regions have received a Rural Initiatives Grant 	<ul style="list-style-type: none"> • 6 Great American Neighborhood design projects are underway • 95% of participants rated the Maine Smart Growth Institute good to excellent; 100% indicated they would recommend it to a colleague • 100% of regional agencies with at least one staff certified from Maine Smart Growth Institute

Other Evaluative Processes

- *Legislative Oversight*: Every four years (more frequently if requested by the Legislature), SPO evaluates the effectiveness of state and local efforts in achieving the goals of the Growth Management Act. SPO provided a report to the Legislature's Natural Resources Committee as recently as 1999. In addition, the Legislature has looked at the Growth Management Program extensively in the past two years. Three legislative task forces have made a number of recommendations, many of which of which have been enacted.

Summary of Rule-making Activity

In 1988, the Department of Economic and Community Development adopted a number of Growth Management rules (Chapters 201 through 210) to implement the program. The Legislature repealed DECD's rule-making authority in 1995 when the program (including authority under DECD rules) was transferred to SPO. SPO was not granted rule-making authority until 2000. A number of the rules are now outdated and need revision. SPO now has rule-making authority to administer the Community Planning and Investment Program as follows:

- to establish the procedures for submission and review of comprehensive plans and zoning ordinances (Chapt 201) (5 MRS A § 13058 (3))
- to establish the criteria for reviewing and approving comprehensive plans for consistency with the goals of the Growth Management Act (Chapt 202) (5 MRSA § 13058 (3))
- to establish the criteria for reviewing municipal subdivision ordinances for consistency with the goals of the Growth Management Act (Chapt 203) (5 MRSA § 13058 (3))

- to establish the procedural requirements and criteria to certify municipal growth management programs (Chapt 205) (5 MRSA § 13058 (3))
- to establish the criteria for reviewing municipal zoning ordinances for consistency with the goals of the Growth Management Act (Chapt 210) (5 MRSA § 13058 (3))
- to establish standardized contracts and administrative and audit requirements for state funds received by regional agencies (no rules promulgated) (30-A MRSA § 2303-2)
- to define service centers (no rules promulgated) (30-A MRSA § 4301-14A)

SPO expects to amend (routine technical rules) chapters 201, 202, 203, 205, and 210 to consolidate and amend procedures for submission and the consistency review criteria for comprehensive plans, zoning ordinances, subdivision ordinances, and growth management programs (30-A MRSA § 4312 (4)). SPO intends to promulgate a new rule (substantive rule) in 2001 to define the methodology for designation of service center communities (30-A MRSA § 4301-6B and 13-A).

Comparison of Federal and State Laws

Not applicable

Constituencies Served

- Municipalities
- Land Use Planners (public and private)
- Regional Agencies
- Homebuyers, Builders, and Design Professionals
- Maine Municipal Association
- Other State Agencies
- Governor and Legislature
- General Public

Efforts to Coordinate with Others

Examples of successful collaborative efforts include:

- *EcoEco Smart Growth Forum*: The EcoEco Smart Growth Forum is an outgrowth the Maine Environmental Priorities Project (MEPP), which identified sprawl as a contributing factor to the most serious environmental problems facing the State. It is made up of representatives of home and home construction businesses, environmental interests, other interested organizations and individuals, and numerous state agencies. SPO worked closely with the forum to develop policy recommendations for the Legislature.
- *Task Force on State Office Building Location, Other State Growth-related Capital Development and Patterns of Development*: In 1998, this 14-member legislative task force embarked on a broad participative process to address the cost of sprawl. SPO participated in the public working meetings, provided data, and conducted research to assist the committee's effort. The result was a piece of landmark legislation (P.L. 1999, Ch. 776) that changes the way the State develops capital facilities. Chapter 776

directs state growth-related capital investments to urban places, requires state office and other civic buildings to be located in downtowns, created the Maine Downtown Center, and much more.

- *The Competitive Advantage:* Through the Land and Water Resources Council, SPO staffs the Smart Growth Coordinating Committee, an interagency group responsible for implementing the Governor's 3-year Smart Growth Action Plan, "The Competitive Advantage." Among others tasks, the committee has identified state growth-related grant and loan programs subject to legislative provisions, prepared a Smart Growth Report Card to measure the State's progress in achieving its objectives, and examined the unintended consequences of environmental policies.
- *Local Review of Development Proposals:* SPO and DEP jointly assist municipalities with reviewing development proposals under the Site Location of Development Law.
- *Consolidated Contract:* SPO and MDOT jointly contract with the State's 11 regional planning agencies to provide coordinated land use and transportation planning and technical assistance services to municipalities. As appropriate, DEP and DECD join in on the consolidated contract.
- *Developing Brownfields:* SPO and DEP work together to secure and administer federal grant funds to assist communities with redeveloping "brownfields" (underused or abandoned industrial and commercial sites with real or perceived environmental contamination problems).
- *Maine Municipal Association:* SPO and MMA regularly confer on technical matters and support each others' work to assist municipalities.
- *Professional Associations:* SPO works with professional associations, such as the Maine Association of Planners, the Northern New England Chapter of the American Planning Association, the Maine Bar, the Maine Association of Landscape Architects, the Maine Realtors, and the Maine Real Estate Development Association to reach larger audiences with information and technical assistance. Examples of these efforts include preparing articles for association newsletters, responding to Internet-based list serve inquiries, and joint sponsorship of workshops and conferences.
- *Smart Growth Institute:* In partnership with the Maine Coastal Program, MDOT, Maine State Housing Authority, Maine Audubon Society, the Muskie School of Public Service (USM), the Maine Association of Realtors, Kent Associates, Planning Decisions, Terrence J. DeWan & Associates, the Town of Brunswick, and the National Center for Smart Growth, SPO presented an intensive two-week residential training program to share the best and most up-to-date information about Smart Growth. Maine's Smart Growth Institute is the first of its kind in Maine and one of only a few in the nation.

Alternate delivery systems

The State Planning Office uses a variety of delivery systems to streamline processes, leverage funds, save time and money, and reach more people. Alternatives to traditional

delivery systems include: contracting with others to provide services, fee-for-service, using volunteers, interns and research fellows, partnering with other organizations, sharing resources, and using electronic mechanisms.

Examples of successful alternative delivery systems for land use planning include:

- *Contracts for Services*: SPO contracts with Maine's 11 regional agencies to deliver land use technical assistance to municipal officials. These agencies help municipalities prepare competitive grant applications for comprehensive planning, implementation, and pilot grants and provide front-line resources to municipalities for addressing basic planning needs. SPO also contracts with the Maine Development Foundation to operate the Downtown Center to provide technical and financial assistance to communities working on the health and revitalization of their downtowns.
- *Interns*: Over the past few years, interns at SPO have helped to develop the Maine's Smart Growth Institute, to design and conduct two charettes exploring issues related to developing smart growth projects under current environmental permitting regulations, and to test approaches to mapping development with respect to locally designated growth areas.
- *Internet Technology*: SPO uses telecommunications technologies, including posting materials to our web page, videotaping workshops and conferences, holding meetings via conference call, and teleconferencing. For example, many of the resources prepared for the Smart Growth Institute will be posted on SPO's web page to increase their availability to interested parties while minimizing the expense to the State of reproducing these materials.

Emerging Policy Issues

The following land use planning issues are likely to command SPO's time and attention in the coming 1-3 years:

- *State Policies Unwittingly Encourage Sprawl*: State policies and programs often work against local plans for orderly growth. These include fiscal policies (such as tax policies and school and road construction funding), grants and investment criteria, economic development policies, environmental laws, policies, and regulations, and highway access and transportation investments.

Many of the State's funding formulas were developed in the 1960-70s when urban places were seen as wealthy centers of economic activity. Cities like Augusta, Bangor, and Lewiston pay for a large percentage of state road construction, for example, while new or upgraded roads in rural areas are generally 100% state- or federally-funded. During the 1990's, the wealth shifted to the suburbs and while urban cities lose population and economic growth, funding policies still force them to bear road construction and other costs.

State environmental laws (wetlands, shoreland, storm water runoff, floodplain management etc.) focus on protecting one particular resource. In contrast, Smart

Growth laws seek to integrate local and regional land use patterns to offset the cumulative and unintended impacts of environmental regulations. For example, high density, mixed use, urban development is inconsistent with maximum density allowed by shoreland zoning laws, yet concentrated development in one area can be managed to mitigate runoff and other environmental impacts. More important, it can prevent low-level development from being pushed into other, more sensitive, and as yet, undisturbed shoreland areas.

For years, land use and transportation planning and investment have been a matter of the chicken and the egg – it is unclear whether land use development has had a greater influence on the need for transportation improvements than the investment in new or expanded roadways has had on stimulating land use development.

While significant strides have been made recently in these areas, over the coming years it will be even more important that state responsibilities are coordinated to assure that fiscal, environmental, and community character concerns are well managed.

***SPO's Role:** Through its Smart Growth Initiative and related land use policy and planning efforts, SPO is likely to have a role in developing and implementing state policy on these matters. As resources allow, SPO works to identify and assist agencies with modifying policies, programs, regulations, and investments that work against local growth management efforts. SPO staffs the Land and Water Resources Council's Smart Growth Coordinating Committee that is charged with carrying out the Governor's and Legislature's directives in this area.*

- ***Land Use Regulation and Affordable Housing:** Many local land use regulations include requirements that make affordable housing difficult to build. These barriers need to be lowered; traditional neighborhood design may be a good tool to achieve both good design and affordability.*

***SPO's Role:** SPO conducted survey research that shows nearly 40% of Maine homebuyers would prefer traditional, compact neighborhoods if this type of housing was available. Using a market-based approach, SPO has been working with developers to create traditional neighborhood designs and even providing small grants to accomplish this.*

- ***Neither Natural Resources nor Markets are Limited by Municipal Boundaries:** Most natural resources and markets do not end at a municipal boundary, but extend across portions of two or more communities. Yet nearly all land use regulation ends at municipal borders and few nonregulatory efforts exist. The State needs to support wider regional protection of these resources with the scale of watersheds and stronger regional and shared approaches to economic development.*

***SPO's Role:** SPO works to foster regional approaches to managing development through the State's regional agencies (Regional Planning Councils, land trusts, Soil & Water Conservation districts, etc). It works with groups of municipalities that are interested in regionalizing the delivery of services. A legislative Growth Management Task Force now underway, is exploring incentives to generate a*

regional response to natural resources protection. SPO is also looking at the potential of geographic information systems (GIS) to facilitate regional planning.

Emerging Programmatic Issues

- *Resources for Expanded Community Planning Efforts:* Growth and development continue to put pressure on state and local budgets. SPO's land use planning duties are designed to help communities encourage and accommodate growth in appropriate locations and to preserve community character, working rural lands, and open spaces. Demand for services continues to grow for local grants and technical assistance, for market strategies to stimulate sound neighborhood development, for coordination between transportation and land use planning, for mitigating conflicts between state environmental and land use policies, and for addressing land use on a regional scale. With greater resources for regional and local agencies, SPO could be more effective in accomplishing state land use planning goals.

Background: By law, local comprehensive plans seek to both encourage and accommodate growth in appropriate locations and to preserve working rural lands and open spaces. SPO carries out its land use planning duties in a wide variety of ways including:

- providing grants that assist hundreds of towns with meeting statutory deadlines for developing plans and land use ordinances;
- developing new tools to reduce costly sprawling patterns of development;
- working with other state agencies to revise policies that unwittingly encourage sprawl (such as funding formulas for state school and road construction); and
- working with the State's 11 regional planning agencies to deliver land use technical assistance to municipal officials.

Though the recent infusion of one-time Smart Growth funds and modification of the Growth Management Act with respect to deadlines for municipal compliance help a great deal, at current funding rates, all towns will not be offered comprehensive planning and implementation grants until well into the second decade of 2000. State funding for regional agencies has been stagnant since the early 1970s even as wise growth has come to be seen as something that must be accomplished at a regional scale. Funding that once covered one full-time staff person in each region now covers less than a half-time position in regions that serve as many as 70 municipalities. The Smart Growth Initiative provided dollars but no staff to implement key provisions.